

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Committee Substitute

for

Senate Bill 597

SENATORS BOSO AND SYPOLT, *original sponsors*

[Originating in the Committee on Government
Organization; Reported on February 21, 2019]

1 A BILL to amend and reenact §30-38A-7, §30-38A-12, and §30-38A-17 of the Code of West
2 Virginia, 1931, as amended, all relating to conforming the state law to the federal law for
3 appraisal management companies' registration; expanding certification requirements;
4 changing requirements for removing appraiser from panel; and imposing disciplinary
5 action reporting requirement.

Be it enacted by the Legislature of West Virginia:

ARTICLE 38A. APPRAISAL MANAGEMENT COMPANIES REGISTRATION ACT.

§30-38A-7. Certification requirements.

1 (a) The certification for registration shall be in writing, on a form prescribed by the board
2 and signed by the applicant or controlling person. The certification shall include statements that
3 the applicant:

4 (1) Has a process in place to verify that any person used as an appraiser or added to the
5 appraiser panel of the applicant is a licensed or certified appraiser in good standing in West
6 Virginia;

7 (2) Has set requirements to verify that appraisers are geographically competent and can
8 perform the appraisals assigned;

9 (3) Has set procedures for an appraiser, licensed or certified in this state or in any state
10 with a minimum of the same certification level for the property type as the appraiser who
11 performed the appraisal, to review the work of the appraisers performing appraisals for the
12 applicant to verify that the appraisals are being conducted in accordance with the minimum
13 Uniform Standards of Professional Appraisal Practice (USPAP) standards;

14 (4) Will require appraisals to be conducted independently and free from inappropriate
15 influence and coercion as required by the appraisal independence standards established under
16 Section 129E of the Truth in Lending Act and the rules and regulations issued pursuant to the
17 Act, including the requirement that appraisers be compensated at a customary and reasonable
18 rate when the appraisal management company is providing services for a consumer credit

19 transaction secured by the principal dwelling of a consumer;

20 (5) Maintains a detailed record of each request for appraisal it receives from a client and
21 the appraiser that performs the appraisal; and

22 (6) Has submitted any other information required by the board.

23 (b) The applicant, each owner, ~~who is an employee of or consultant for the applicant~~ and
24 any controlling person shall submit a written verification, on a form prescribed by the board, that
25 includes statements that:

26 (1) The written application and verification for registration contain no false or misleading
27 statements;

28 (2) The applicant has complied with the requirements of this article;

29 (3) The applicant, each owner, ~~who is an employee of or consultant for the applicant~~ and
30 the controlling person of the firm seeking registration has not pleaded guilty or nolo contendere
31 to or been convicted of a felony;

32 (4) Within the past 10 years, the applicant, each owner, ~~who is an employee of or~~
33 ~~consultant for the applicant~~ and the controlling person of the firm seeking registration has not
34 pleaded guilty or nolo contendere to or been convicted of:

35 (A) A misdemeanor involving mortgage lending or real estate appraisals; or

36 (B) An offense involving breach of trust or fraudulent or dishonest dealing;

37 (5) The applicant, each owner, ~~who is an employee of or consultant for the applicant~~ and
38 the controlling person of the firm seeking registration are of good character and reputation and
39 that none of them has had a license or certificate to act as an appraiser refused, denied, canceled,
40 revoked, or surrendered in this state or any other jurisdiction, and the license or certification was
41 not subsequently granted or reinstated;

42 (6) The applicant, each owner, ~~who is an employee of or consultant for the applicant~~ and
43 the controlling person of the firm seeking registration are not permanently or temporarily enjoined
44 by a court of competent jurisdiction from engaging in or continuing any conduct or practice

45 involving appraisals, appraisal management services, or operating an appraisal management
46 company;

47 (7) The applicant, each owner, ~~who is an employee of or consultant for the applicant~~ and
48 the controlling person of the firm seeking registration are not the subject of an order of the board
49 or any other jurisdiction's agency that regulates appraisal management companies that denied,
50 suspended, or revoked the applicant's or firm's privilege to operate as an appraisal management
51 company;

52 (8) The applicant, each owner, ~~who is an employee of or consultant for the applicant~~ and
53 the controlling person of the firm seeking registration have not acted as an appraisal management
54 company while not being properly registered by the board; and

55 (9) Set forth any other requirements of the board.

§30-38A-12. Requirements for removal from an appraiser panel.

1 (a) ~~Except within sixty days from the date an appraiser is first added to the appraiser panel~~
2 ~~of an appraisal management company~~ An appraisal management company may only remove an
3 appraiser from an appraiser panel or refuse to assign appraisals to an appraiser after providing
4 the appraiser 20 days' prior written notice stating the reasons for the removal or refusal and
5 providing an opportunity for the appraiser to be heard.

6 (b) An appraiser who is removed from an appraiser panel or refused appraisal
7 assignments for an alleged act or omission that would constitute grounds for disciplinary action
8 under the provisions of §30-38-12 of this code, a violation of the Uniform Standards of
9 Professional Appraisal Practice (USPAP), or a violation of state law or legislative rule may file a
10 complaint with the board for a review of the appraisal management company's decision.

11 (c) The board's review under this subsection is limited to determining whether:

12 (1) The appraisal management company has complied with subsection (a) of this section;
13 and

14 (2) The appraiser has engaged in an act or omission that would constitute grounds for

15 disciplinary action under the provisions of §30-38-12 of this code, or has committed a violation of
16 the USPAP or a violation of state law or legislative rule.

17 (d) The board shall hold a hearing on the complaint within a reasonable time, not
18 exceeding six months after the complaint was filed, unless there are extenuating circumstances
19 that are noted in the board's minutes.

20 (e) If the board determines after the hearing that an appraisal management company
21 acted improperly, then the board shall order the appraisal management company to restore the
22 appraiser to the appraiser panel or assign appraisals to the appraiser.

23 (f) After the board's order, an appraisal management company may not:

24 (1) Reduce the number of appraisals given to the appraiser; or

25 (2) Penalize the appraiser in any other manner.

§30-38A-17. Notice and hearing procedures.

1 (a) The board, on its own motion or upon receipt of a written complaint, may investigate
2 an appraisal management company, a person or firm associated with an appraisal management
3 company, ~~and~~ or a person or firm performing appraisal management services.

4 (b) If the board determines after the investigation there are grounds for disciplinary action,
5 the board may hold a hearing after giving 30 days' prior notice.

6 (c) The board has the same powers set out in §30-38-1 *et seq.* of this code.

7 (d) After notice and a hearing, the board may:

8 (1) Deny, revoke, or refuse to issue or renew the registration of an appraisal management
9 company or restrict or limit the activities of an appraisal management company or of a person or
10 firm that owns an interest in or participates in the business of an appraisal management company;

11 (2) Impose a fine not to exceed \$25,000 for each violation; or

12 (3) Take other disciplinary action as established by the board by rule.

13 (e) The board may seek injunctive relief in the Kanawha County Circuit Court to prevent a
14 person or firm from violating the provisions of this article or the rules promulgated hereunder. The

15 circuit court may grant a temporary or permanent injunction.

16 (f) Within five days of a final disciplinary action, the board will report any action taken to
17 the Appraisal Subcommittee of the Federal Financial Institutions Examination Council via its
18 extranet application.

NOTE: The purpose of this bill is to conform state law to federal law for appraisal management companies' registration.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.